

of Medicaid staff should also make suggestions to the hospitals concerning the action necessary to correct the alleged discrimination. It is not necessary for the provider to accept the Mississippi Division of Medicaid's suggestions; however, it is necessary that the hospital submit an acceptable plan of correction to the Mississippi Division of Medicaid within thirty (30) days after receipt of the written review findings.

9. When the office receives the provider's plan of correction, the surveyor should review it and make a determination as to whether it meets Civil Rights Guidelines and expectations. If the worker has some concerns about the acceptability or feasibility of the plan, he should direct them to the specific provider in writing.

10. If significant problems exist between Title VI and Section 504 guidelines and provider practices, an on-site visit will be scheduled. The problem areas will be discussed with the responsible administrative personnel and actual regulations will be clearly outlined and explained to the responsible staff. Employees should also be interviewed in efforts to determine discrimination either in client or employee practices.

A brief narrative regarding this on-site review will be placed in the provider's record along with the other compliance information and correspondence.

11. Where problems of possible discrimination practices are cited, follow-up reviews will be conducted anywhere from 3-6 months following the conclusion of the primary review. These reviews may be either desk or announced on-site and will address the provider's plan of correction and that plan's implementation into provider practices. A record of that review will be placed in the provider's compliance file.

12. Each provider will be notified in writing of his current compliance status.

Long Term Care Facilities Compliance Reviews

A. General Procedure Description

Once every two (2) years each long term care provider of Medicaid services will receive a desk compliance review. Each Long Term Care Facility will be requested to submit to this office information necessary to determine provider compliance. This information shall include: 1. a current one-day resident bed census, 2. copies of the facility's current written Title VI policies, 3. copies of the facility's advertisement to the general public of the facility's non-discriminatory policies.

All information submitted will receive a desk review by appropriate Mississippi Division of Medicaid personnel. Certain practices and submitted information could require an explanation from the provider facility because discrimination may be involved. These specific indications will be "spelled out" in writing to each provider and an explanation will be requested of that same provider. Suggestions by the Mississippi Division of Medicaid personnel to correct possible discrimination practices will also be included. If significant problems exist, Mississippi Medicaid personnel may find it necessary to conduct on-the-site reviews in the provider facilities. These on-site reviews will consist primarily of the same information requested in the desk review with, additionally, administrative and employee interviews.

In order to insure facility commitment toward change, follow-up reviews will be conducted with each provider where problems exist. These reviews will be either desk or on-site reviews and will be initiated within six (6) months from the date of the review where significant problems were identified.

B. Specific Procedure

1. Each month requests for information will be sent to individual Long Term Care provider. (Tickler file will show which provider should be sent information requests

during which month.) This request will include a cover letter and blank census forms.

2. This compliance information should be returned to the Mississippi Division of Medicaid office in a timely and complete manner. Information should be returned within a 30-day time frame. Authorization for such compliance information and this office's access to that same information are clearly outlined in Part 80.6 of the Civil Rights Act.

3. Upon receipt of this information, Mississippi Division of Medicaid Title VI personnel will review its content to determine if the Long Term Care provider practices any procedures which might suggest the presence of discrimination.

4. The requested census data should indicate to Title VI personnel if discriminatory practices are existent at the long term care facility. Specific attention should be directed to total percentage of minority residents (compared to the percentage of minority in the service area) and percentage of minority residents living in biracial accommodations. Residents must also be assigned to wards, floors, sections, buildings, or other areas without regard to race, color, or national origin.

5. Written policy statements should be compared with the Office of Civil Rights guidelines to insure compatibility. Once copies of written policy statements have been secured and placed in Mississippi Division of Medicaid files, future request for written policies will only be necessary if there has been a change in provider written Title VI policy.

Specific written Long Term Care policies should address: a. room assignments, b. admissions, c. patient records, d. staff privileges, e. patient services, f. referrals, g. notification of services available, and h. courtesy titles.

6. Once the material has been reviewed, the long term care provider will be notified in writing of the review findings. The responsible Mississippi Division of Medicaid staff should also make suggestions to the Long Term Care Facility concerning the action necessary to correct the alleged discrimination. It is not necessary for the provider to

accept the Mississippi Division of Medicaid suggestions; however, it is necessary that the Long Term Care Facility submit an acceptable plan of correction to the Mississippi Division of Medicaid within thirty (30) days after receipt of the written review findings.

7. When the office receives the provider's plan of correction, the Title VI staff members should review it and make a determination as to whether it meets Civil Rights' guidelines and expectations. If the worker has some concerns about the acceptability or feasibility of the plan, he should direct them to the specific provider in writing.

8. If significant problems exist between Title VI guidelines and provider practices, an on-site visit will be scheduled. The problem areas will be discussed with the responsible administrative personnel and actual Civil Rights' regulations will be clearly outlined and explained to the responsible staff. Employees should also be interviewed in efforts to determine discrimination either in client or employee practices.

A brief narrative regarding this on-site review will be placed in the provider's record along with the other compliance information and correspondence.

9. When the review of each provider has been completed, summary form will be filled out and placed in the appropriate section (Title VI) of that provider file.

10. Where problems of possible discrimination practices are cited, follow-up reviews will be conducted within six (6) months following the conclusion of the primary review. These reviews may be either desk or announced on-site and will address the provider's plan of correction and that plan's implementation into provider practices. A record of that review will be placed in the provider's compliance file.

11. Each provider will be notified in writing of his current compliance status.

Physician Compliance Reviews

A. General Procedure Description

On an annual basis, ten percent (10%) of physicians and dentists participating in the Medicaid Program will be screened for compliance with Title VI guidelines and regulations. Each provider, who will be selected at random, will be requested to submit to the office certain compliance information. This information shall address: 1. entrances, 2. waiting areas, 3. use of treatment facilities, and 4. provision for seeing patients.

Information submitted will receive a desk review to determine possible discrepancies between provider practices and Civil Rights guidelines. Providers will be notified of these discrepancies in-writing and given a time frame in which to respond with an acceptable explanation or "plan of correction".

When problems occur with provider practices, the Mississippi Division of Medicaid Title VI staff may find it necessary to conduct an on-site review of the provider's office or clinic. These reviews will consist of primarily gathering the same information as the desk review; however, will deal with the specific problems indicated through face-to-face provider interviews. On-site interviews might also include provider employee and patient interviews to assist in determining provider discriminatory practices.

Subsequent follow-up reviews will be conducted with each provider where significant problems exist. These reviews will be conducted giving the provider adequate time to demonstrate planned commitment to Title VI guidelines. If significant progress or provider commitment cannot be determined by the Title VI staff, a recommendation to the Director of the Division of Medicaid as to provider participation in the Program will be made.

All complaints made against a physician or dentist alleging discriminatory practices

will be handled in a timely and complete manner.

B. Specific Procedure Description

1. Once every month request for information will be sent to individual physician/dentist providers. These providers will be selected at random and will be requested to complete a form and return it to the Commission's Title VI Surveyor.

2. The information returned will then be reviewed to determine possible discrepancies between provider practices and Civil Rights guidelines. Problem areas to be investigated include, but are not limited to, the following:

- a. two or more entrances for use by patients to enter waiting rooms,
- b. two or more waiting rooms for patient use,
- c. non-discriminatory statement not posted,
- d. non-availability of all treatment facilities to all patients.

3. Once the information has been reviewed by Title VI Surveyor, a decision will be made to either find the provider "in compliance" from the material generated by the desk review or to conduct an on-site review at the provider's office. The problems stated in Section 2, above, would provide cause for on-site review of a provider.

4. If the physician/dentist provider has been found "in compliance", he/she is notified in writing. If problems exist, written notification to the provider is made along with a request for a date to conduct the on-site review.

5. An on-site review will provide the Title VI personnel first-hand knowledge of actual provider practices. Patients may be interviewed to determine any discriminatory practices by the provider. Additionally, the on-site review gives the Title VI Surveyor an opportunity to discuss problems/discrepancies with the provider on a face-to-face basis.

6. A summary of the findings of the on-site review will be placed in the appropriate Mississippi Division of Medicaid file. This summary will include the current compliance status of the provider, possible recommendations for compliance, and the necessity of an additional follow-up visit.

7. The provider will be notified, in writing, of the results of the on-site visit.

8. If a surveyor determines that a provider may be "non-compliant" with Title VI, the case is presented to the Director of the Mississippi Division of Medicaid for a decision. If the decision of non-compliance is upheld, the provider may appeal through the regular appeal mechanism of the Division.

Complaint Procedure

Any person who believes himself/herself, or any specific class of individuals, to be subjected to discrimination prohibited by the Civil Rights Act of 1964 may file with Title VI personnel of the Mississippi Division of Medicaid a report of the alleged discrimination. All complaints of alleged discrimination will be investigated in a prompt manner and the name of the person filing the complaint will be kept confidential.

Upon receipt of a discrimination report, a Mississippi Division of Medicaid staff member will complete a Title VI complaint form. The form will then be forwarded to the appropriate Title VI surveyor to determine the action required to investigate the alleged complaint. That same person or another investigator will be assigned the complaint for review and actual investigation. The investigation should include, where appropriate, a review of the pertinent practices and policies of the provider, the circumstances under which the possible discrimination occurred, and other factors relevant to a determination as to whether the provider has failed to comply with the Civil Rights Act of 1964.

A written report of the complaint investigation will be placed in the provider's Title VI file at the Mississippi Division of Medicaid. If the investigation indicates a possible failure to comply with the Civil Rights Act, the provider will be notified in writing of the possible violations and be given a thirty-day time frame to respond to the investigation findings. If an investigation does not indicate any violations, the provider will also be notified in writing of the results of the investigation. All matters will be resolved by informal means, whenever possible.

If a surveyor is unable to resolve with the provider the complaint investigation findings by informal means, the surveyor will present the case to the Director of the Mississippi Division of Medicaid for his review. The Director may then act accordingly

with Section 80.8 of the Civil Rights Act and could suspend, terminate, or refuse to grant Federal Financial Assistance to the provider pending referral to the Division's legal services. However, every effort to persuade the provider to comply with Civil Rights Regulations will be undertaken.

Federal Regulation

§ 80.8 Procedure for effecting compliance.

(a) *General.* If there appears to be a failure or threatened failure to comply with this regulation, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, (1) a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act), or any assurance or other contractual undertaking, and (2) any applicable proceedings under State or local law.

(b) *Noncompliance with § 80.4.* If an applicant fails or refuses to furnish an assurance required under § 80.4 or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. The Department shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that the Department shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application therefor approved prior to the effective date of this part.

(c) *Termination of or refusal to grant or to continue Federal financial assistance.* No order suspending, terminating or refusing to grant or continue Federal financial assistance shall become effective until (1) the responsible Department official has advised the applicant or recipient of his failure to comply and has determined that compliance cannot be secured by voluntary means, (2) there has been an express finding on the record, after opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part, (3) the expiration of 30 days after the Secretary has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved, a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall

be limited to the particular political entity, or part thereof, or other applicant or recipient as to whom such a finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found.

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the responsible Department official has determined that compliance cannot be secured by voluntary means, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply with the regulation and to take such corrective action as may be appropriate.

(Sec. 601, 602, Civil Rights Act of 1964; 78 Stat. 252; 42 U.S.C. 2000d, 2000d-1, Sec. 182, 80 Stat. 1209; 42 U.S.C. 2000d-5) [29 FR 16298, Dec. 4, 1964, as amended at 32 FR 14556, Oct. 19, 1967; 38 FR 17982, July 5, 1973]

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